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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JEFFERY L. LUQUE,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

) Civ. No: C 05-2471 JSW  
)  
) **STIPULATION AND**  
) **~~[PROPOSED]~~ ORDER**  
) **RELATING AND**  
) **CONSOLIDATING LOPEZ V.**  
) **UNITED STATES OF**  
) **AMERICA, CASE NO. 06-3552**  
) **MJJ, AND VACATING ALL**  
) **PRETRIAL AND TRIAL**  
) **DATES IN THE PRESENT**  
) **ACTION EXCEPT**  
) **SETTLEMENT CONFERENCE**

**STIPULATION**

**1. Relation of Case No. 05-2471 JSW to Case No. 06-3552 MJJ**

On June 17, 2005, Jeffrey Luque's complaint was filed against the Defendant United States of America. Mr. Luque's case involves a complaint for negligence under the general maritime law. Mr. Luque has alleged that he was injured on June 5, 2004, while fishing with his family on THE GARGOYLE (a 23-foot Bayliner Trophy) in Suisun Bay, California, near the Ready Reserve Fleet of the United States Maritime Administration ("MARAD").

On June 2, 2006, a complaint was filed by Peggy Lopez against the United States and was assigned to Judge Jenkins, Case No. 06-3552 MJJ. Ms. Lopez's claim against the United States is based on the alleged property damage to THE GARGOYLE incurred in the same June 5, 2004 incident that gave rise to Mr. Luque's complaint. Ms. Lopez was the sole owner of THE GARGOYLE on the day of the incident.

On June 9, 2006, Mr. Luque and Ms. Lopez filed notices of related cases in their actions. Plaintiff asserts that the Summons & Complaint in Ms. Lopez's action have been served on the United States. Defendant United States has 60 days to respond following service. Counsel for the Government has not yet received the service copies of the Lopez complaint.

**2. Settlement Conference with Judge Larson**

The parties in the present action had been ordered to participate in a settlement conference with Judge Larson. Due to an error in scheduling the conference, the settlement conference did not occur on June 7, 2006 at 2:00 p.m. Judge Larson has reset the settlement conference for August 2, 2006.

**3. Consolidation of the Cases and Vacating Current Deadlines in Mr. Luque's Case**

Based upon the above developments, the parties agree that both actions should be related pursuant to Local Rule 3-12 and consolidated for all purposes,

that the current deadlines and trial date of October 23, 2006 in Case No. 05-2471 JSW should be vacated, including the case management conference on August 11, 2006, that the settlement conference before Magistrate Judge Larson should be kept on calendar and that a new scheduling order covering both actions should be issued after the United States appears in Ms. Lopez's action. The parties, therefore, stipulate and respectfully request that the Court vacate all current pretrial and trial dates in Case No. 05-2471 JSW with the exception of the settlement conference and issue an order relating and consolidating the two cases.

IT IS SO STIPULATED.

DATED: June 27, 2006

BANNING MICKLOW & BULL, LLP

By: /s/ Kurt Micklow

KURT MICKLOW  
EUGENE A. BRODSKY

Attorneys for Plaintiffs  
JEFFREY L. LUQUE, individually and as  
Guardian ad Litem for CHRISTINE  
LUQUE, a minor

DATED: June 27, 2006

PETER D. KEISLER  
Assistant Attorney General  
JOHN K. VINCENT  
United States Attorney

/s/ Jeanne M. Franken  
JEANNE M. FRANKEN  
Trial Attorney  
U.S. Department of Justice

Attorneys for Defendant  
UNITED STATES OF AMERICA

### **CERTIFICATE OF SIGNATURE(S)**

I attest that the content of the document is acceptable to all persons above, who were required to sign the document. /S/ Kurt Micklow

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED. All pretrial and trial dates in this matter including the August 11, 2006 case management conference are vacated. The Court will consider setting new pretrial and trial dates in the related and consolidated cases at a case management conference to be held ~~after September 2006.~~ on September 29, 2006 at 1:30 p.m. The parties' joint case management conference statement shall be due on September 22, 2006.

DATED: June 28, 2006

  
THE HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE